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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

Joel M. Kowan, M.D.
Certificate # A-28021

Respondent.

D-3924

DECISION

The attached Stipulation is hereby adopted by the
Division of Medical Quality of the Board of Medical Quality
Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on _____
May 3, 1990.

IT IS SO ORDERED April 3, 1990.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



THERESA CLAASSEN
Secretary-Treasurer

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 WILLIAM BLUM,
4 Deputy Attorney General
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6 Los Angeles, California 90010
7 Telephone: (213) 736-7543
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9 Attorneys for Complainant
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BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

JOEL M. KOWAN, M.D.
4477 Whittier Blvd.
Los Angeles, CA 90022

Physician's and Surgeon's
Certificate No. A 28021,

Respondent.

NO. D-3924

STIPULATION IN SETTLEMENT
OF ACCUSATION

IT IS HEREBY STIPULATED AND AGREED by and between
complainant, Kenneth J. Wagstaff, Executive Director of the Board
of Medical Quality Assurance of the State of California, by and
through his attorney, John K. Van de Kamp, Attorney General, by
William Blum, Deputy Attorney General; and respondent, Joel M.
Kowan, M.D. (hereinafter "respondent") by and through his
attorney, John R. Ramos, Esq., as follows:

1. The Board of Medical Quality Assurance (hereinafter
the "Board") has jurisdiction in this matter by reason of
respondent's having been served with a copy of the Accusation in
the above-entitled matter and other documents as provided for in

1 sections 11503 and 11505 of the Government Code.

2 2. At all times relevant herein, respondent has held
3 physician's and surgeon's certificate number A 28021, issued to
4 him by the Board. Said certificate remains in full force and
5 effect.

6 3. Respondent has filed a Notice of Defense in the
7 instant proceeding. Respondent has retained the services of John
8 R. Ramos, Attorney at Law, and has counseled personally with
9 attorney Ramos. At all times pertinent herein, complainant has
10 been represented by the Attorney General of the State of
11 California, and specifically by William Blum, Deputy Attorney
12 General.

13 4. Respondent has received, read and understood that
14 the charges and allegations in the Accusation against him in this
15 proceeding constitute cause for imposing discipline on
16 certificate number A 28021, and he has been fully advised by his
17 counsel with regard to his rights in this matter. Specifically,
18 respondent is aware of his right to an administrative hearing;
19 his right to confront and cross-examine the witnesses who will be
20 called to testify against him; his right to the use of process to
21 secure oral and documentary evidence, both in defense and
22 mitigation of the charges and allegations; his right to petition
23 the Board for reconsideration of any penalty rendered adversely
24 to him; and his right to appeal to the courts of the State of
25 California pursuant to the California Code of Civil Procedure.
26 Respondent herein knowingly and intelligently, and with the
27 advice and concurrence of counsel, waives and gives up each of

1 the above-enumerated rights and stipulates and agrees that the
2 charges and allegations pending against him in the instant
3 Accusation may be resolved by this Stipulation.

4 5. Respondent admits that each and every allegation
5 set forth in the Accusation is true and that the Accusation
6 establishes cause for discipline against his physician's and
7 surgeon's certificate. A true and correct copy of the Accusation
8 is attached hereto as "Annex A" and incorporated herein as though
9 fully set forth at this point.

10 6. The admissions made herein are solely for the
11 purposes of a settlement in these proceedings, and they shall
12 have no force or effect, nor may they be used in any other
13 action, civil or criminal, other than in accusations against
14 respondent arising before the Board.

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DETERMINATION OF ISSUES

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7. Pursuant to the foregoing stipulated facts and the
admissions set forth in paragraph 5 of this Stipulation, cause
for discipline has been established against respondent under the
provisions of Business and Professions Code sections 725,
2234(c), and 2238, and Health and Safety Code section 11153(a).

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DECISION

8. Pursuant to the waivers and admissions herein, the Board may issue the following Decision:

Physician's and surgeon's certificate number A 28021 issued to respondent, Joel M. Kowan, M.D., is revoked. However, said revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

(1) ACTUAL SUSPENSION - As part of probation, respondent is suspended from the practice of medicine for ninety (90) days beginning the effective date of this Decision.

(2) CONTROLLED DRUGS RESTRICTIONS - Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

(3) DRUGS - EXCEPTION FOR PERSONAL ILLNESS - Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs shall not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

(4) EDUCATION COURSE - Within ninety (90) days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Division of Medical Quality (hereinafter "Division") for its prior approval an educational program or course to be

1 designated by the Division, which shall not be less
2 than twenty (20) hours per year for each year of
3 probation. This program shall be addition to the
4 Continuing Medical Education requirements for re-
5 licensure. Following the completion of each course,
6 the Division or its designee may administer an
7 examination to test respondent's knowledge of the
8 course. Respondent shall provide proof of attendance
9 for all hours of Continuing Medical Education.

10 (5) ETHICS COURSE - Within ninety (90) days of
11 the effective date of this Decision, respondent shall
12 submit to the Division for its prior approval a course
13 in Ethics, which respondent shall successfully complete
14 during the first year of probation.

15 (6) ORAL CLINICAL EXAM - Within ninety (90) days of
16 the effective date of this Decision, respondent shall
17 take and pass an oral exam in the subject of general
18 medicine. If respondent fails this examination,
19 respondent must take and pass a re-examination
20 consisting of a written as well as an oral examination.
21 The waiting period between repeat examinations shall be
22 at three-month intervals until success is achieved.
23 The Division shall pay the cost of the first
24 examination and respondent shall pay the cost of any
25 subsequent re-examination. Respondent shall not
26 practice medicine until respondent has passed the
27 required examination and has been so notified by the

1 Division in writing. Failure to pass the required
2 examination no later than 100 days prior to the
3 termination date of probation shall constitute a
4 violation of probation.

5 F. OBEY ALL LAWS - Respondent shall obey all
6 federal, state and local laws, and all rules governing
7 the practice of medicine in California.

8 G. QUARTERLY REPORTS - Respondent shall submit
9 quarterly declarations under penalty of perjury on
10 forms provided by the Division, stating whether there
11 has been compliance with all the conditions of
12 probation.

13 H. SURVEILLANCE PROGRAM - Respondent shall comply
14 with the Division's Probation Surveillance Program.

15 I. INTERVIEW WITH MEDICAL CONSULTANT - Respondent
16 shall appear in person for interviews with the
17 Division's Medical Consultant upon request at various
18 intervals and with reasonable notice.

19 J. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE
20 - The period of probation shall not run during the time
21 respondent is residing or practicing outside the
22 jurisdiction of California. If, during probation,
23 respondent moves out of the jurisdiction of California
24 to reside or practice elsewhere, respondent is required
25 to immediately notify the Division in writing of the
26 date of departure, and the date of return, if any.

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1 K. COMPLETION OF PROBATION - Upon successful
2 completion of probation, respondent's certificate will
3 be fully restored.

4 L. VIOLATION OF PROBATION - If respondent
5 violates probation in any respect, the Division, after
6 giving respondent notice and the opportunity to be
7 heard, may revoke probation and carry out the
8 disciplinary order that was stayed. If an accusation
9 or a petition to revoke probation is filed against
10 respondent during probation, the Division shall have
11 continuing jurisdiction until the matter is final, and
12 the period of probation shall be extended until the
13 matter is final.

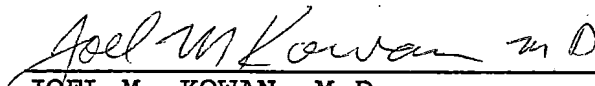
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15 9. This Stipulation is subject to approval of the
16 Board. If the Stipulation is rejected by the Board, it shall be
17 of no force or effect.

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19 * * * * *

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21 I have read the within stipulation and its terms are
22 understood by me and are agreeable and acceptable to me. I
23 understand that I am waiving certain rights accorded me by the
24 California Administrative Procedure Act, and I willingly,
25 intelligently and voluntarily waive those rights. I understand
26 that my physician's and surgeon's certificate will be placed on
27 probation for a period of five (5) years upon various terms and

1 conditions. I have discussed said terms and conditions with my
2 attorney, and I agree to be bound by them.

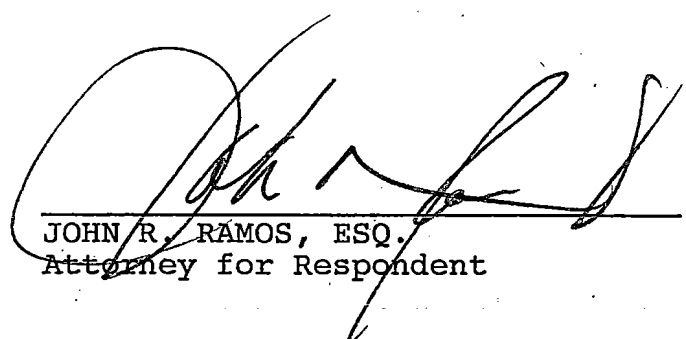
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4 DATED: 12-30-, 1989.

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7 JOEL M. KOWAN, M.D.
8 Respondent

9 * * * * *

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11 I have read and reviewed the Stipulation with my
12 client, and I am satisfied that he understands this Stipulation
13 and agrees to be bound by it. I understand that the foregoing
14 constitutes only an offer of settlement to the Board of Medical
15 Quality Assurance, and if it is rejected, the matter will proceed
16 to trial without prejudice to either the Board or respondent for
17 having considered this Stipulation.

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20 DATED: 1-12-, 1990.

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23 JOHN R. RAMOS, ESQ.
24 Attorney for Respondent
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The foregoing Stipulation and Decision is submitted to the
Board of Medical Quality Assurance for its consideration and
adoption as its Order in resolution of Case Number D-3924.

DATED: 1-30, 1990.

JOHN K. VAN DE KAMP, Attorney General
WILLIAM BLUM,
Deputy Attorney General



WILLIAM BLUM
Deputy Attorney General

Attorneys for Complainant

C:Kowan

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5 Attorneys for Complainant
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8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)
Against:)

NO. D-3924

13 JOEL M. KOWAN, M.D.)
14 4477 Whittier Boulevard)
Los Angeles, CA 90022)

ACCUSATION

15 Physician's and Surgeon's)
16 Certificate No. A28021)

17 Respondent.)
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21 Complainant, Kenneth J. Wagstaff, alleges as follows:

22 1. He is the Executive Director of the Board of
23 Medical Quality Assurance (hereinafter the "Board") of the State
24 of California and brings this accusation solely in his official
25 capacity.

26 2. Joel M. Kowan, M.D. (hereinafter "respondent")
27 holds physician's and surgeon's certificate number A28021, which

1 was issued by the Board on March 21, 1975, authorizing him to
2 practice medicine in the State of California. Such certificate
3 is currently in full force and effect.

4 3. Pursuant to Business & Professions Code sections
5 2220 and 2224,^{1/} the Division of Medical Quality, a division of
6 the Board (hereinafter referred to as the "Division") is
7 authorized to take disciplinary action against all persons,
8 including licensed physicians and surgeons guilty of violating
9 the Medical Practice Act.

10 4. Section 2234 provides, in pertinent part, that the
11 Division shall take action against any licensee who is charged
12 with unprofessional conduct. According to subdivision (c) of
13 said section, unprofessional conduct includes, but is not limited
14 to, repeated negligent acts.

15 5. Section 2238 provides, in pertinent part, that a
16 violation of any of the statutes or regulations of the state
17 regulating dangerous drugs or controlled substances constitutes
18 unprofessional conduct.

19 6. Section 725 provides, in pertinent part, that
20 repeated acts of clearly excessive prescribing of drugs, as
21 determined by the standard of the community of licensees, is
22 unprofessional conduct.

23 7. Health and Safety Code section 11153(a) provides,
24 in pertinent part, that a prescription for a controlled substance
25 shall only be issued for a legitimate medical purpose by an
26

27 1. Except as otherwise indicated, all statutory
references are to the Business & Professions Code.

1 individual practitioner acting in the usual course of his or her
2 professional practice. Said section specifically provides that
3 an order for an addict or habitual user of controlled substances,
4 which is issued not in the course of professional treatment or as
5 part of an authorized methadone maintenance program, for the
6 purpose of providing the user with controlled substances,
7 sufficient to keep him or her comfortable by maintaining
8 customary use, is not a legal prescription. Violation of said
9 section constitutes a felony.

10 8. Valium, Tylenol with codeine, Darvon, Fastin,
11 Prelu-2, Desyrel, and Plegine, Percodan, Dalmane, Elavil,
12 Antabuse, Doriden, and Placidyl are dangerous drugs within the
13 meaning of sections 2238 and 4211 and controlled substances
14 within the meaning of Health and Safety code sections 11053
15 through 11058.

16 ISSUING PRESCRIPTIONS FOR CONTROLLED SUBSTANCES

17 WITHOUT A LEGITIMATE MEDICAL PURPOSE

18 9. Respondent is subject to disciplinary action
19 pursuant to Section 2238 and Health and Safety Code section
20 11153(a) as follows:

21 A. Treatment of Rachelle McCullough

22 ("Sally G. Lupe G.")

23 10. On or about February 3, 1986, Rachelle McCullough,
24 a special operator employed by the Board, visited respondent at
25 his office in an undercover capacity, posing as a patient named
26 "Sally G."

27 11. Ms. McCullough was first seen by respondent's

1 nurse, who weighed her and took her blood pressure. She was then
2 placed in an examination room, but no examination was performed.

3 When seen by respondent, Ms. McCullough asked for Tylenol #4 (a
4 combination of Tylenol and Codeine). Respondent prescribed
5 Tylenol #3 (a combination of Tylenol and Codeine) and tried to
6 persuade Ms. McCullough to have the prescription filled via
7 telephone by a pharmacy adjoining his office.^{2/} At Ms.
8 McCullough's request, respondent gave her a written prescription.
9 During this visit, Ms. McCullough affected the speech and
10 attitude of someone addicted to uppers and downers. The
11 prescription of Tylenol #3 was issued to her without a legitimate
12 medical purpose.

13 12. Ms. McCullough next visited respondent on June 24,
14 1986. She was again seen by the nurse, who weighed her and took
15 her blood pressure. No physical examination was performed and no
16 pertinent medical history was taken. Ms. McCullough again asked
17 for Tylenol #4. However, respondent prescribed Darvon M 100 mg
18 (30) and Fastin 30 mg (30). Once again, Ms. McCullough exhibited
19 dependent needs for these drugs. The prescriptions were issued
20 without a legitimate medical purpose.

21 13. Ms. McCullough next visited respondent on October
22 8, 1986. She was once again weighed and her blood pressure
23 taken. After complaining that the Fastin was too weak, she was
24 given Prelu-2 and Desyrel 100 mg (30). No physical examination
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27 2. The difference between Tylenol #4 and Tylenol #3 is
that the #4 variety contains one (1) grain of codeine, while #3
contains three-fourths (3/4) of a grain.

1 was performed. The prescriptions were issued without a
2 legitimate medical purpose.

3 14. Ms. McCullough next visited respondent on October
4 29, 1986. After respondent's nurse weighed her and took her
5 blood pressure, respondent inquired whether she had any pain.
6 Even though Ms. McCullough denied pain, respondent prescribed
7 Tylenol #3 (30), Prelu-2 (30), and Desyrel 100 mg (30). No
8 physical examination was performed.

9 15. Ms. McCullough next visited respondent on November
10 12, 1986. Her weight and blood pressure were checked. After Ms.
11 McCullough informed respondent that her purse had been stolen
12 with her prescriptions, respondent gave her duplicate
13 prescriptions for Tylenol #3, Desyrel 100 mg, and Prelu-2. No
14 physical examination was performed. The prescriptions were re-
15 issued without a legitimate medical purpose.

16 16. Ms. McCullough next visited respondent on May 13,
17 1987. This time, she informed the nurse that her name was "Lupe
18 G[REDACTED]" and that she used both that name Lupe G[REDACTED] and that of
19 Sally G[REDACTED]. A new chart, under the name of Lupe G[REDACTED], was
20 assembled and the nurse checked Ms. McCullough's weight and blood
21 pressure. A brief physical examination of her mouth, chest and
22 abdomen was performed. Although she stated that she had no pain,
23 she was given a prescription for Tylenol #3 (30) and Plegine 35
24 mg #2. The prescriptions were issued without a legitimate
25 medical purpose.

26 B. Treatment of Henry Avina ("William G[REDACTED]")

27 17. On June 20, 1986, Henry Avina, an investigator

1 employed by the Board, visited respondent at his office in an
2 undercover capacity, posing as a patient named William G[REDACTED]
3 Mr. Avina was seen by respondent's nurse, who checked his blood
4 pressure and weight. Once seen by respondent, Mr. Avina stated
5 that he only wanted prescriptions, especially for Percadan and
6 Doriden. Although respondent refused this request, he prescribed
7 Valium 5 mg and Tylenol #3. These prescriptions were issued even
8 though Mr. Avina reported no pain. No physical examination was
9 performed and only a cursory history was taken. The
10 prescriptions were issued without a legitimate medical purpose.

11 C. Treatment of Barbara O'Quin ("Barbara W[REDACTED])

12 18. On February 11, 1986, Barbara O'Quin, an
13 investigator employed by the Board visited respondent at his
14 office in an undercover capacity, posing as a patient named
15 Barbara W[REDACTED]. Her blood pressure and weight were checked by
16 respondent's nurse. Ms. O'Quin asked for Tylenol #4 and
17 Nembutal. Respondent prescribed Tylenol #3 and Dalmane for
18 sleep. No examination of any sort was performed. The
19 prescriptions were issued without a legitimate medical purpose.

20 19. On April 23, 1986, Ms. O'Quin visited respondent
21 again. No physical examination was performed, although
22 respondent performed some blood tests in order "to get something
23 down on paper." Respondent prescribed Tylenol #3 and Elavil 50
24 mg. The prescriptions were issued without a legitimate medical
25 purpose.

26 20. Ms. O'Quin again visited respondent on June 13,
27 1986. Her weight and blood pressure were checked, but no

1 physical examination was performed. Respondent and Ms. O'Quin
2 discussed the possibility that she suffered from alcoholism. It
3 was also noted that Ms. O'Quin suffered from high blood pressure.
4 Despite the fact that Ms. O'Quin denied being an alcoholic,
5 however, respondent prescribed Antabuse 250 mg and Placidyl 500
6 mg. No treatment was provided for or offered for the suspected
7 high blood pressure. The prescriptions given to Ms. O'Quin were
8 issued without a legitimate medical purpose.

9 REPEATED NEGLIGENT ACTS

10 21. Complainant hereby incorporates by reference
11 paragraphs 9 through 20 of this accusation, supra, as if fully
12 set forth herein.

13 22. Respondent is subject to disciplinary action
14 pursuant to section 2234(c) in that he has been guilty of
15 repeated negligent acts in his treatment of patients Rachelle
16 McCullough (Sally G[REDACTED]/Lupe G[REDACTED]), Henry Avina (William
17 G[REDACTED]) and Barbara O'Quin (Barbara W[REDACTED]). The repeated
18 negligent acts consists of the following:

- 19 (a) Except for the May 13, 1987 office visit made by
20 Rachelle McCullough, none of the aforementioned
21 patients was ever given a physical examination.
22 Only weight and blood pressure readings were taken
23 by respondent's nurse.
- 24 (b) No diagnoses of the physical conditions of these
25 patients were ever made.
- 26 (c) Nothing more than cursory medical histories were
27 ever taken from any of the patients.

1 (d) Respondent's discussions with said patients
2 centered around "pain" even when no complaints of
3 pain were presented by the patients.

4 (e) Respondent engaged in clearly excessive
5 prescribing of medications, especially of Tylenol
6 #3 and tranquilizers. There was never any
7 legitimate medical reason for any of the
8 prescriptions given to the aforementioned
9 patients.

10 (f) Respondent repeatedly pressured the aforementioned
11 patients to have their prescriptions filled via
12 telephone at the pharmacy adjoining respondent's
13 office.

14 (g) Respondent failed to provide treatment to Barbara
15 O'Quin for hypertension at her office visit of
16 June 13, 1986 even though she was noted to be
17 suffering from that condition.

18 EXCESSIVE PRESCRIPTIONS

19 23. Respondent is subject to disciplinary action
20 pursuant to section 725 in that he engaged in repeated acts of
21 excessive prescribing of drugs to patients Rachelle McCullough
22 (Sally G████/Lupe G████), Henry Avina (William G████), and
23 Barbara O'Quin (Barbara W████). The drugs so prescribed are
24 enumerated in paragraphs 9 through 20 of this accusation, supra,
25 which paragraphs are incorporated herein by reference.

26 WHEREFORE, complainant prays a hearing be held on the
27 matter alleged herein, and following said hearing, that the

1 Division issue a decision:

2 1. Revoking or suspending physician and surgeon's
3 certificate number A028021, heretofore issued to Joel M. Kowan;
4 and,

5 2. Taking such other and further action as the
6 Division may deem proper.

7 DATED: March 27, 1989

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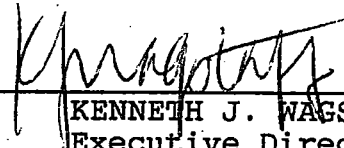
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KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality Assurance
Complainant